

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

KEITH W. ANTHONY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 5:14-cv-05554
	:	
RICHARD SELTZER, RYAN ALLES,	:	
CITY OF ALLENTEWON, MEHMET BARZEV,	:	
and MATTHEW BRETT,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 30th day of September, 2016, for the reasons set forth in the Memorandum issued this date, **IT IS HEREBY ORDERED THAT:**

1. Defendant Alles's Motion to Dismiss Plaintiff's Amended Complaint, ECF No. 40, is **DENIED**.

2. Defendants Seltzer and the City of Allentown's Motion to Dismiss Plaintiff's Amended Complaint, ECF No. 41, is **DENIED**.

3. Defendants Barzev, Brett, and City of Allentown's Motion to Dismiss Plaintiff's Amended Complaint, ECF No. 45, is **DENIED in part and GRANTED in part as follows:**

A. Defendants' request to limit Plaintiff's theory of liability on the excessive force claim to the Fourth Amendment is **GRANTED**, and Counts One and Two may proceed only under the Fourth Amendment;

B. Defendants' motion to dismiss Count Two for failure to state a claim is **DENIED**;

C. Defendants' motion to dismiss Barzev and Brett on the basis of qualified immunity is **DENIED without prejudice**; and

D. Defendants' motion to dismiss Count Four is **GRANTED**, and Count Four is **DISMISSED with prejudice**.

4. A new scheduling order will be issued.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge